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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,063	08/15/2001	Tadayuki Kameyama	020527	8898

7590

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EXAMINER

KENNEDY, JENNIFER M

ART UNIT

PAPER NUMBER

2812

DATE MAILED: 08/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n N .

09/929,063

Applicant(s)

KAMEYAMA ET AL.

Examiner

Jennifer M. Kennedy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
P r i d f r R p l y

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 May 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

Claim 17 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 9.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Broer et al. (U.S. Patent No. 5,825,444).

Broer et al. discloses a polarizing member comprising an absorption type polarizing film (7 or 15; see column 7, lines 35-50) and one polymer material layer (2 or 11) or two or more polymer material layer provided on one or both of opposite surfaces of the absorption type polarizing film, wherein each polymer material layer does not have any extraordinary refractive index area with a length not smaller than 20  $\mu\text{m}$  and does not have two or more any extraordinary refractive index area with a length of from 0.5 to 20  $\mu\text{m}$  in a region of 50  $\mu\text{m}$  radius (see column 8, lines 13-23).

Further Broer et al. disclose whereon each polymer material layer is an optically compensating layer (2 or 11), wherein the polarizing member includes a reflection type polarizing plate (4), which transmits linearly polarized light with a predetermined axis of

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polarization while reflecting residual light, and wherein a retarder plate (6 or 12) is provided between the polarizing member and the reflection type polarizing plate (4) and wherein the retarder plate is made of a quarter wave plate (6 or 12), and wherein the polarizing member and optical member is disposed on one or both of opposite sides of a liquid crystal cell (24).

Claims 10 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Asano (U.S. Patent No. 5,048,933).

In re claims 10, 12, and 14, Asano discloses an absorption type polarizing film (21, 22), and one or more polymer material layer (11C, 12C; see column 12, lines 42-50) provided on one or both of opposite surfaces of the absorption type polarizing film and a migration preventing layer disposed between the absorption type polarizing film and each of the polymer material layers. Asano also discloses the method wherein the migration prevention layer is a silica film and is a silicone agent (part of 11A and 12A; see column 12, line 66 through column 13, line 7 and column 14, line 10-15).

In re claims 10 and 11, Asano discloses an absorption type polarizing film (21, 22), and one or more polymer material layer (11C, 12C; see column 12, lines 43-50) provided on one or both of opposite surfaces of the absorption type polarizing film and a migration preventing layer disposed between the absorption type polarizing film and each of the polymer material layers. Asano also discloses the method wherein the migration prevention layer is a polymer (11A and 12A). The examiner notes that any layer could be considered a migration prevention film since it just a matter of naming a

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film, further the examiner notes that any layer would provide an amount of migration prevention over no intermediate layer being present at all.

In re claims 10 and 13, Asano discloses an absorption type polarizing film (21, 22), and one or more polymer material layer (11C, 12C; see column 12, lines 42-50) provided on one or both of opposite surfaces of the absorption type polarizing film and a migration preventing layer disposed between the absorption type polarizing film and each of the polymer material layers. Asano also discloses the method wherein the migration prevention layer is a metal oxide (11B and 12B). The examiner notes that any layer could be considered a migration prevention film since it just a matter of naming a film, further the examiner notes that any layer would provide an amount of migration prevention over no intermediate layer being present at all.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Broer et al. (U.S. Patent No. 5,825,444).

Broer et al. discloses the polarizing member substantially as claimed and rejected above, but does not disclose the light source having a luminance of 500 cd/m<sup>2</sup> or higher. It would have been obvious to one having ordinary skill in the art at the time

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the invention was made to have a light source with a luminance of 500 cd/m<sup>2</sup> or higher, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

2. In addition, the selection of a source of light with a luminance of 500 cd/m<sup>2</sup> or higher, its obvious because it is a matter of determining optimum process conditions by routine experimentation with a limited number of species of result effective variables. These claims are prima facie obvious without showing that the claimed ranges achieve unexpected results relative to the prior art range. *In re Woodruff*, 16 USPQ2d 1935, 1937 (Fed. Cir. 1990). See also *In re Huang*, 40 USPQ2d 1685, 1688 (Fed. Cir. 1996)(claimed ranges or a result effective variable, which do not overlap the prior art ranges, are unpatentable unless they produce a new and unexpected result which is different in kind and not merely in degree from the results of the prior art). See also *In re Boesch*, 205 USPQ 215 (CCPA) (discovery of optimum value of result effective variable in known process is ordinarily within skill or art) and *In re Aller*, 105 USPQ 233 (CCPA 1995) (selection of optimum ranges within prior art general conditions is obvious).

3. Note that the specification contains no disclosure of either the critical nature of the claimed light source with a luminance of 500 cd/m<sup>2</sup> or higher or any unexpected results arising therefrom. Where patentability is said to be based upon particular chosen value of luminance or upon another variable recited in a claim, the Applicant

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must show that the chosen values are critical. *In re Woodruf*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

Claim 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. (U.S. Patent No. 6,153,272) in view of Kotz et al. (Chemistry and Chemical Reactivity, second edition, pp 166).

Kim et al. discloses a polarizer member comprising an absorption type polarizing film and one or more polymer material layer provided on one or both opposite surfaces of the absorption type polarizing film, wherein each polymer layer comprises a polymer made from a polymer solution to thereby purify the polymer to a state in which low molecular weight bodies have been removed (see column 8, lines 54-67).

Kim et al. does not disclose that a filtration film is used. Kotz et al. discloses that once a solid is precipitated out the precipitate and the supernate are further separated by filtration. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a filter to further separate the polymer precipitate of Kim et al. with a filter as Kotz et al. discloses to ensure a complete collection of the precipitate.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Asano (U.S. Patent No. 5,048,933) in view of Kim et al. (U.S. Patent No. 6,153,272).

Asano discloses the polarizer substantially as claimed and rejected above, but does not disclose that the polymer layer is purified. Kim et al. discloses the method of forming a purified polymer layer (see column 8, lines 54-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the

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polymer layer of Asano of a purified polymer of Kim et al. in order to create a highly stable liquid crystal cell (see Kim et al. column 2, lines 13-32).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer M. Kennedy whose telephone number is (703) 308-6171. The examiner can normally be reached on Mon.-Fri. 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Niebling can be reached on (703) 308-3325. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

*jmk*

jmk

August 5, 2003



John F. Niebling  
Supervisory Patent Examiner  
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